

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN**

White Bay Partners, LLC

Plaintiff,

v.

Soggy Dollar, LLC

Defendant.

) Case No. 1:14-cv-00781

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) Honorable Paul L. Mahoney

) United States District Judge

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CONSENT FINAL JUDGMENT AND PERMANENT INJUNCTION

Pursuant to Fed. R. Civ. P. 58, it is hereby ORDERED and ADJUDGED that final judgment be entered in favor of Plaintiff White Bay Partners, LLC (“White Bay Partners”) and against Defendant Soggy Dollar, LLC (“SD LLC”) on Counts I, II and III of White Bay Partners’ Complaint [ECF No. 1], for trademark infringement and unfair competition relating to SD LLC’s infringing use of White Bay Partners’ SOGGY DOLLAR marks.

In accordance with this final judgment, the Court hereby orders and adjudges as follows:

1. This Court has jurisdiction over the parties and subject matter jurisdiction pursuant to 15 U.S.C. § 1121(a) and 28 U.S.C. §§ 1331, 1338(a), 1338 (b), and 1367(a), as this action arises under the trademark laws of the United States;

2. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b) and (c) because a substantial part of the events giving rise to the claims arose within this judicial district and because SD LLC resides, and is subject to personal jurisdiction, in this district;

3. White Bay Partners, through its predecessors in interest and licensees (such predecessors in interest and licensees are herein collectively included, as appropriate, in the term “White Bay Partners”) has continuously used since 1979, and continues to use, the SOGGY

DOLLAR Marks (as defined in paragraph 4 *infra*) in connection with restaurant and bar services and related products and services, to advertise, market, offer to sell, and sell its goods and services in the stream of interstate commerce throughout the United States.

4. White Bay Partners is the sole owner by assignment of U.S. Reg. No. 2,474,289 (the “289 Registration”) for the mark SOGGY DOLLAR BAR in connection with restaurant and bar services in International Class (“IC”) 41, and U.S. Reg. Nos. 3,994,061 for the mark SOGGY DOLLAR for goods in IC 21 (the “061 Registration”); 3,994,072 for goods in IC 28 (the “072 Registration”); 3,998,211 for services in IC 35 (the “211 Registration”); 4,006,199 for goods in IC 25 (the “199 Registration”) (collectively, the ‘289 Registration, ‘061 Registration, ‘072 Registration, ‘211 Registration, and ‘199 Registration are the “SOGGY DOLLAR Registrations”); and Serial No. 86/032,159 for goods in IC 32 and 33 (collectively with the ‘289 Registration, the “SOGGY DOLLAR Marks”);

5. The SOGGY DOLLAR Registrations and SOGGY DOLLAR Marks are valid and enforceable;

6. SD LLC is using the name THE SOGGY DOLLAR in connection with advertising, promoting, providing, and selling restaurant and bar services at The Soggy Dollar restaurant, bar and grill in Northport, Michigan and on its Facebook page at <https://www.facebook.com/pages/The-Soggy-Dollar/462998667101916> (the “Site”);

7. SD LLC infringed the SOGGY DOLLAR Marks by using THE SOGGY DOLLAR mark in connection with its restaurant and bar services and related goods and services in the United States (the “Infringing Services”);

8. The parties now desire to fully and finally resolve their disputes amicably in relation to this Action and consent to entry of this Consent Final Judgment and Permanent Injunction;

9. White Bay Partners agrees to allow SD LLC to continue limited use of THE SOGGY DOLLAR mark solely in connection with operation of its Northport, Michigan location and on the Site through October 31, 2014 (the "Phase-Out Period");

10. Upon the conclusion of the Phase-Out Period, SD LLC, its officers, directors, employees, agents, licensees, successors, and assigns, and all those acting in concert or participation with SD LLC who receive actual notice of this Consent Final Judgment and Permanent Injunction, are hereby permanently ENJOINED from:

- i. further commercial use of THE SOGGY DOLLAR mark without the express written permission of White Bay Partners, either alone or in combination with other words, names, or symbols, on or in connection with the sale, offer for sale, or advertising of restaurant and bar services and related goods and services;
- ii. performing or committing any other acts falsely representing SD LLC's goods or services, or which are likely to cause confusion or mistake in the mind of the purchasing public, or to lead purchasers or the trade to believe that SD LLC's services or products come from or are the services or products of White Bay Partners, or are somehow sponsored by, associated with, affiliated with, or connected with White Bay Partners, or that there is some relation, association, affiliation, or connection between White Bay Partners and SD LLC;
- iii. passing off, or inducing or enabling others to sell or pass off, SD LLC's products or services as those of White Bay Partners;

- iv. otherwise unfairly competing with White Bay Partners, and from any other acts which discourage, dilute, or destroy the public's recognition of the SOGGY DOLLAR Marks; and
- v. questioning, attacking, contesting, challenging the use or validity of, opposing the registration or application of, or seeking cancellation of the Soggy Dollar Marks;

11. The parties shall bear their own costs of this action, no damages are awarded, and all rights of appeal are waived; and

12. This Court shall retain jurisdiction over this matter for purposes of enforcing the provisions of this Consent Final Judgment and Permanent Injunction, including over any claim that SD LLC has violated any term of this Consent Final Judgment and Permanent Injunction.

IT IS SO ORDERED this 10th day of September, 2014.

/s/ Paul L. Maloney

Honorable Paul L. Mahoney
United States District Judge

WE ASK FOR THIS:

WHITE BAY PARTNERS, LLC

/s/ Richard A. Gaffin

Richard A. Gaffin (P31406)
Koernke & Crampton PC
940 Monroe Avenue NW, Ste. 250
Grand Rapids, MI 49503
Telephone: (616) 458-7900
rgaffin@grandlaw.com

OF COUNSEL:

Patrick R. Hanes
Martin W. Hayes
Amy G. Marino
WILLIAMS MULLEN, P.C.
P.O. Box 1320
Richmond, Virginia 23218-1320
Telephone: (804) 420-6455
Facsimile: (804) 420-6507
phanes@williamsmullen.com
mhayes@williamsmullen.com
amarino@williamsmullen.com

SOGGY DOLLAR, LLC

/s/ Brace Kern

Brace Kern
Dingeman, Dancer,
& Christopherson, P.L.C.
100 Park Street
Traverse City, MI 49684
Telephone: (231) 929-0500
Facsimile: (231) 929-0504
BKern@ddc-law.com